IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION No 2207 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JAGRUTIBEN NAYANKUMAR VYAS W/O NAYANKUMAR UMESHCHANDRA

Versus

NAYANKUMAR UMESHCHANDRA VYAS

Appearance:

1. Misc.Civil Application No. 2207 of 2003

MR JAYESH A DAVE for Petitioner No. 1

MR BHARAT R PANDYA for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 06/04/2004

ORAL JUDGEMENT

By filing this application under Section 24 of the Civil Procedure Code, the applicant has prayed that H.M.P.No.37/2002, which is filed by the respondent be

transferred from the Court of learned Civil Judge (S.D.) Gandhinagar, to the court of learned Civil Judge (S.D.) Amreli.

2) The applicant and the respondent are wife and husband, respectively. Unfortunately, there is disturbance in their matrimonial life, with the result that both sides have approached respective courts, by resorting to the provisions of the Hindu Marriage Act. The applicant-wife has instituted a proceeding for judicial separation under Section 10 of the Hindu Marriage Act. The said petition is numbered as H.M.P. No.40/2002, which is pending in the Court of learned Civil Judge (S.D.) at Amreli. The respondent-husband has also instituted a suit for restitution of conjugal rights and the said petition is numbered as H.M.P.No.37/2002, which is pending before the Gandhinagar Court. By filing this application, the applicant has prayed that the case pending before the Gandhinagar Court may be transferred to Amreli Court so that both the proceedings can be heard together and she does not have to travel upto Gandhinagar with a small child.

3) Mr.B.R.Pandya, learned advocate appearing for the respondent has fairly stated, after taking instructions from his client, that he has no objection if the case pending before the Gandhinagar Court is transferred to Amreli Court so that both the proceedings can be heard together. However, he has submitted that the respondent is doing naturopathy work and hence, it is not possible for him to leave Gandhinagar frequently and, therefore, he requested that both the proceedings may be ordered to be decided at the earliest so that the matrimonial dispute can be put to an end one way or the other.

4) In view of the stand taken by the respondent-husband, H.M.P. No.37/2002, which is pending in the court of Civil Judge (S.D.), Gandhinagar, is ordered to be transferred to the Court of Civil Judge (S.D.) Amreli. After such transfer, the learned Civil Judge shall hear H.M.P.No.40/2002 as well as H.M.P.No.37/2002 together and thereafter, may decide the same expeditiously and latest by 31st August, 2004, as this matrimonial dispute is not required to be kept pending for a long time. Whatever amount of interim alimony is required to be paid as per the order of the Court may be paid by the respondent so that the proceedings can be decided finally within the stipulated time.

5) This Misc.Civil Application is accordingly

allowed to the aforesaid extent. Rule is made absolute accordingly with no order as to costs. Writ to be sent to the Gandhinagar Court forthwith for transferring the case papers of H.M.P.No.37/2002 to Amreli Court and after receiving the same, the learned Civil Judge at Amreli shall immediately proceed with the matters and decide the same within the stipulated time.

(P.B.Majmudar,J.)

/malek